

REMARKS

Reconsideration of this application is respectfully requested.

In the Official Action, the Examiner reiterates the rejections from the previous Office Action. Specifically, the Examiner rejects claims 1-4, 9-12, 14-19, 24-27, and 29-32 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2003/0093792 to Labeeb et al., (hereinafter “Labeeb”). Furthermore, the Examiner rejects claims 5-8, 13, 20-23, and 28 under 35 U.S.C. § 103(a) as being unpatentable over Labeeb.

In response, the Applicant again respectfully traverses the Examiner’s rejections under 35 U.S.C. §§ 102(e) and 103(a) for at least the reasons set forth below.

In response to the previous Office Action, the Applicant respectfully submitted that the present invention was conceived in the United States prior to the earliest effective filing date of the Labeeb reference, June 30, 2000. In support of Applicant’s arguments, a Declaration was submitted under 37 C.F.R. § 1.131 for antedating the Labeeb reference.

The Examiner argues that the Declaration is defective because (1) the submitted exhibit is not dated prior to the earliest filing date of Labeeb; (2) the declaration does not demonstrate diligence during the period prior to 6/30/2000 and the filing on 9/20/2000; and (3) the submitted exhibit only mentions some of the elements of the claims but does not support many of the claimed elements.

With regard to item (1) above, the Applicant and undersigned respectfully submit that it is common and acceptable practice to redact the date of the exhibit(s). See also MPEP 715.07 (ESTABLISHMENT OF DATES), which sets forth that where the dates are removed, the matter of dates may be taken care of in the declaration with a statement by the inventor that the conception or reduction to practice occurred prior to the effective date of the reference. The

Applicant respectfully submits that the declaration contained such a statement in paragraph 3, which reads:

The invention disclosed and claimed in the Application was completed in the United States, by me, and under my direct supervision and control prior to the earliest filing of the Labeeb reference, i.e., June 30, 2000.

Therefore, the Applicant respectfully submits that it is proper and common in U.S. Patent Law practice to redact dates from exhibits showing an earlier date of conception or reduction to practice as long as the declaration contains a statement that the conception or reduction to practice occurred before the earliest filing date of the reference.

With regard to item (2) above, submitted herewith is a declaration from the attorney handling this matter demonstrating diligence during the period prior to 6/30/2000 and the filing on 9/20/2000.

With regard to item (3) above, Applicants respectfully submit that the submitted Exhibit supports the claims as recited in the present application either expressly or inherently as understood by those of ordinary skill in the art. The Applicant respectfully submits that if the Examiner believes that some claim elements are not supported in the submitted exhibit, to provide a detailed listing of the claimed features that are alleged not to be supported.

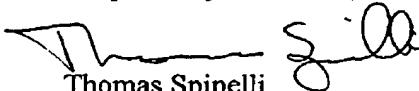
Since the requirements under 37 CFR 1.131 have been met in the submitted Declarations, Applicant respectfully requests that the Declarations are sufficient to establish a conception prior to the earliest filing date of the Labeeb reference.

Accordingly, the Examiner is again respectfully requested to withdraw the rejections under 35 U.S.C. §§ 102(e) and 103(a) based on the Labeeb reference.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be

allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No. 39,533

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

TS:jap
Encl. (Executed Declaration Under 37 C.F.R. § 1.131)